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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE RIGEL PHARMACEUTICALS, INC.
SECURITIES LITIGATION.

Master File No. CV 09-0546 JSW

CLASS ACTION

**UNDERWRITER DEFENDANTS'
REPLY IN SUPPORT OF JOINDER IN
RIGEL AND INDIVIDUAL
DEFENDANTS' MOTION TO DISMISS
CONSOLIDATED COMPLAINT**

This Document Relates To: All Actions

Date: December 4, 2009

Time: 9:00 a.m.

Courtroom: 11, 19th Floor

Judge: Hon. Jeffrey S. White

1 The Underwriter Defendants filed a Notice of Joinder and Joinder in Rigel and Individual
 2 Defendants' Motion to Dismiss Consolidated Complaint (Docket No. 35, the "Joinder"). The
 3 Joinder expressly adopted all of the arguments set forth in the Motion that related to the two
 4 counts (third and fourth) in which the Underwriter Defendants are named. The Underwriter
 5 Defendants hereby also adopt and incorporate by reference each and every argument set forth in
 6 Rigel and Individual Defendants' Reply in Support of Motion to Dismiss Consolidated
 7 Complaint relating to the third and fourth counts.

8 Plaintiff did not oppose the Underwriter Defendants' Joinder. But in its opposition to
 9 Rigel's Motion (Docket No. 37, the "Opposition"), Plaintiff included a section ostensibly
 10 addressed to the Underwriter Defendants. (Opposition at 23-24). Plaintiff asserts that the
 11 Underwriter Defendants' decision to join Rigel's Motion and not file a separate motion to
 12 dismiss repeating those arguments somehow implies that the Underwriter Defendants "do not
 13 dispute" that they failed to meet their "gatekeeper" duties. This assertion is not true. Plaintiff's
 14 assertion is the subject of the Underwriter Defendants' due diligence defense, which is not at
 15 issue in the pending Motion. If it becomes necessary, the Underwriter Defendants will assert
 16 their due diligence affirmative defense and then establish that they performed a reasonable
 17 investigation and had reasonable ground to believe and did believe that the statements in the
 18 offering materials were true and not misleading. 15 U.S.C. § 77k(b)(3)(A); *In re Software*
 19 *Toolworks Inc. Sec. Litig.*, 50 F.3d 615, 621 (9th Cir. 1994).

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 21 DATED: November 12, 2009

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 23
 24 By: /s/ Jerry L. Marks
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